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EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
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3761

13

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,045

Applicant(s)

HANSEN, EBBA A.

Examiner

Michele Kidwell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 8-15, 17-26 and 46-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 16 and 27-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4,6,61/2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

Claims 8 – 15, 17 – 26 and 46 – 49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 12.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: reference character “120” and reference character “140” as shown in figure 1 are not mentioned in the description. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

- Reference character “10” has been used to designate an absorbent garment, a garment, and a pant like garment
- Reference character “34” has been used to designate both tabs and elasticized tabs

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- Reference character "32" has been used to designate elastic waist foam, waist foam, other elastically extensible material, waist elastic material, waist elastics and optional foam waist strips
- Reference character "42" has been used to designated both an elastic member and flap elastics
- Reference character "30" has been used to designate a leg elastic containment system and leg elastics
- Reference character "286" has been used to designate an inner layer, an additional layer, a fluid acquisition layer, a fluid distribution layer, a storage layer, a wicking layer and a fragmented additional layer
- Reference character "284" has been used to designate an inner layer and a central fibrous layer

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification does not provide proper antecedent basis for a hook portion, a loop portion or a hook and loop fastener as set forth in claims 4 and 36. Further, the specification does not provide proper antecedent basis for a tape

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receiving surface as set forth in claims 5 and 37. Additionally, claim 27 recites a SAP efficiency of at least 80%. There is no proper antecedent basis for this recitation.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The use of various trademarks has been noted in this application. The trademarks should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

Claim 41 is objected to because of the following informalities: the letters "rs" after the word "fibers" in line 2 should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 7, 16 and 27 – 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Baker (US 2003/0135177)

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

With reference to claim 1, Baker discloses an absorbent article having a longitudinal dimension and a lateral dimension comprising a topsheet (24) a backsheet (26), whereby the topsheet and the backsheet form a first waist region, a second waist region longitudinally opposite the first waist region, and a crotch region therebetween (page 4, paragraph 0039); an absorbent laminate core at least partially disposed between the topsheet and the backsheet (28); the absorbent laminate core comprising at least four layers (280,282,284,290) whereby two of the layers are outer layers comprising an upper layer (280) and a lower layer (282) and one of the inner layers (284) disposed between the upper layer and the lower layer is a central fibrous layer containing from about 30 to about 50% by weight super absorbent polymer (page 9

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paragraphs 0086 – 0087) whereby the absorbent laminate core comprises at least one additional inner layer disposed between the upper layer and the lower layer, the additional inner layer being selected from the group consisting of a fluid acquisition layer, a distribution layer, an additional fibrous layer optionally containing super absorbent polymer, a wicking layer, a storage layer, and combinations and fragments thereof as set forth on page 13 in paragraph 0123.

As to claim 2, Baker discloses an absorbent article further comprising at least one fastening element attached to a lateral edge of the first waist region and one or more target devices attached to the article in the second waist region, where at least one fastening element and the one or more target devices are capable of attaching to one another, the one or more target devices being located so that the first waist region and the second waist region of the garment may be joined to one another to secure the garment on a wearer as set forth on page 6 in paragraphs 0060 – 0061 and in figure 12.

With reference to claim 3, Baker discloses an absorbent article further comprising elastic leg gathers comprising one or more elastic materials disposed adjacent the lateral edge of the crotch region, and standing leg gathers disposed on the topsheet adjacent the lateral edge of the crotch region as set forth on page 6 in paragraph 0059 and in figure 1.

Regarding claim 4, Baker discloses an absorbent article wherein the at least one fastening element comprises a hook portion of a hook and loop fastener and the one or more target devices comprise the loop portion of a hook and loop fastener as set forth on page 16 in claim 4.

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As to claim 5, Baker discloses an absorbent article wherein the at least one fastening element is an adhesive tape and the one or more target devices comprise a tape receiving surface as set forth on page 16 in claim 5.

With respect to claim 6, Baker discloses an absorbent article wherein the at least one fastening element is comprised of a pair of laterally extending tabs disposed on the lateral edges of the first waist region, whereby the laterally extending tabs each include at least one fastening element as set forth on page 16 in claim 6.

Regarding claim 7, Baker discloses an absorbent article wherein one additional layer is used, and the layer is a fluid acquisition layer as set forth on page 13 in paragraph 0123.

As to claim 16, Baker discloses an absorbent article wherein the absorbent laminate core comprises an upper layer (280), a lower layer (282), a central fibrous layer disposed between the upper layer and the lower layer (284) and an additional layer disposed between the central fibrous layer and the upper layer, the additional layer being selected from a fluid acquisition layer, or a combination of a wicking and distribution layer as set forth on page 13 in paragraph 0123.

With reference to claim 27, Baker discloses an absorbent article wherein the central fibrous layer comprises from about 50% to about 95% by weight super absorbent polymers (SAP), and has a SAP efficiency of at least 80% as set forth on page 16 in claim 11.

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As to claim 28, Baker discloses an absorbent article wherein the central fibrous layer comprises fibers selected from the listed group as set forth on page 16, in claim 12.

With reference to claim 29, Baker discloses an absorbent article wherein the central fibrous layer comprises cellulose acetate tow fibers as set forth on page 9 in paragraph 0088 and on page 10 in paragraph 0097.

Regarding claim 30, Baker discloses an absorbent article wherein the central fibrous layer further comprises up to 10% by weight wood pulp fibers as set forth on page 16 in claim 13.

With respect to claim 31, Baker discloses an absorbent article wherein the central fibrous layer further comprises particulate additives as set forth on page 9, in paragraph 0087.

With reference to claim 32, Baker discloses an absorbent article wherein the particulate additives comprise insoluble, hydrophilic polymers having particle diameters of 100 μ m or less as set forth on page 9 in paragraph 0091.

As to claim 33, Baker discloses an absorbent article wherein the particulate additives are selected from the listed group as set forth on page 9 in paragraph 0091.

With reference to claim 34, Baker discloses a method of making an absorbent article comprising:

- a) preparing a topsheet and a backsheet
- b) preparing an absorbent laminate core by:
 - b1) preparing an upper layer and a lower layer;

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b2) preparing a central fibrous layer containing from about 30 to about 50% by weight of superabsorbent polymer particles (SAP), and at least partially disposing the central fibrous layer between the upper layer and lower layer; and

b3) preparing at least one additional layer selected from the group consisting of a fluid acquisition layer, a distribution layer, an additional fibrous layer optionally containing SAP, a wicking layer, a storage layer, and combinations and fragments thereof, and disposing the at least one additional layer between the upper and lower layers; and

c) disposing the absorbent laminate core between the topsheet and the backsheet, whereby the topsheet, backsheet and absorbent laminate core are prepared and arranged such that the topsheet and the backsheet form a first waist region, a second waist region longitudinally opposite the first waist region, and a crotch region between the waist regions as set forth on page 15 in paragraphs 0142 – 0144; page 9 in paragraph 0123; page 13 in paragraph 0123.

As to claim 35, Baker discloses a method further comprising:

d) attaching at least one fastening element to lateral edges of the first waist region; and

e) preparing at least one target device and attaching the at least one target device to the article in the second waist region, where the at least one fastening element and the at least one target device are capable of attaching to one another, the at least one target device being located so that the first waist region and second waist

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region of the article may be joined to one another to secure the article on a wearer as set forth on page 6 in paragraphs 0060 – 0061 and in figure 12.

With reference to claim 36, Baker discloses a method wherein the at least one fastening element comprises a hook portion of a hook and loop fastener and the at least one target device comprises the loop portion of a hook and loop fastener as set forth on page 16, line 4.

As to claim 37, Baker discloses a method wherein the at least one fastening element is an adhesive tape and the one or more target devices comprise a tape receiving surface as set forth on page 16 in claim 5.

With respect to claim 38, Baker discloses a method wherein the at least one fastening element is comprised of a pair of laterally extending tabs disposed on the lateral edges of the first waist region, whereby the laterally extending tabs each include at least one fastening element as set forth on page 16 in claim 6.

As to claim 39, Baker discloses a method wherein the central fibrous layer comprises from about 50% to about 95% by weight super absorbent polymer as set forth on page 17 in claim 35.

As to claim 40, Baker discloses a method wherein the central fibrous layer comprises fibers selected from the listed group as set forth on page 11, in paragraph 0105 – 0107.

With reference to claim 41, Baker discloses a method wherein the central fibrous layer comprises cellulose acetate tow fibers as set forth on page 9 in paragraph 0088 and on page 10 in paragraph 0097.

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Regarding claim 42, Baker discloses a method wherein the central fibrous layer further comprises up to 10% by weight wood pulp fibers as set forth on page 17 in claim 37.

With respect to claim 43, Baker discloses a method wherein the central fibrous layer further comprises particulate additives as set forth on page 9, in paragraph 0087.

With reference to claim 44, Baker discloses a method wherein the particulate additives comprise insoluble, hydrophilic polymers having particle diameters of 100 μ m or less as set forth on page 9 in paragraph 0091.

As to claim 45, Baker discloses a method wherein the particulate additives are selected from the listed group as set forth on page 9 in paragraph 0091.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michele Kidwell
February 8, 2004